

Appl. No. 07/330,446
Amendment dated August 13, 2004
Reply to Final Office Action of March 8, 2004

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on March 8, 2004, and requests reconsideration of the rejection of the claims.

Claims 21 - 25 are cancelled without prejudice or disclaimer. Applicants reserve the right to pursue the subject matter of these claims in one or more continuation applications.

Claims 2 and 20 have been amended. Claim 2 was amended to delete the typographic error "as" in the last line of the claim. Claim 20 was amended to correct a typographic error and to clarify the claim. The amendment to claim 20 is supported throughout the specification, including at page 11, lines 1-6.

Claims 26 - 30 have been added. Support for the added claims can be found in throughout the specification including at page 4 line 9 to page 5 line 21; page 14, lines 1-16; page 16, line 12 to page 17, line 21; and page 42, line 19 to page 43, line 8. No new matter has been added.

Accordingly, claims 1-4, 6, 7, 20, and 26 -30 are pending in this application.

Applicants thank the Examiner for properly re-setting the mailing date of the present office action from January 8, 2004 to March 8, 2004.

Interview

Applicants thank Examiner Carlson for the interview conducted on August 12, 2004. Applicants discussed cancelling claims 21-25 and presenting new claims 26-30. Applicants discussed that the sequence of claims 26 and 28 have a glutamine at the N terminus rather than pyroglutamic acid and that this sequence is described in the specification. We also discussed language regarding conservative amino acid substitutions.

Applicants also submit herewith Gong et al, J. Exp. Med., 181:631 (1995) as Exhibit A and Van Coillie et al., Biochemistry, 37:12672 (1998) as Exhibit B. The Gong et al. reference (Exhibit A) clearly indicates that a wild type pyroglutamic is not essential for binding and function of MCP-1. (See page 634). The Van Coillie et al. reference

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shows that there is heterogeneity regarding MCP proteins in that the pyroglutamic of MCP-2 is required for chemotactic activity. (See page 12678, column 2). The authors also note that the pyroglutamic acid is not essential for activity of MCP-1. (See page 12678, column 2).

35 U.S.C. §112, first paragraph

Claims 21-25 were again rejected under 35 U.S.C. §112, first paragraph, as lacking a written description for non-human sources of the protein. The examiner's position remains essentially unchanged from the prior office action mailed February 15, 2000. Applicants maintain their traverse to the rejection for the reasons stated in the amendment filed August 15, 2000. However, in order to expedite prosecution and permit the remaining claims, indicated allowable, to proceed to issue Applicants have cancelled claims 21-25 and reserve the right to pursue them in a separately filed continuation application.

Obviousness-type Double Patenting

Claims 1-4, and 6-7 were rejected under obviousness-type double patenting. These claims resulted from a restriction requirement of June 22, 1989 of then copending application USSN 07/304,234, now abandoned, refiled as USSN 07/686,264, now U. S. Patent 6,090,795. A Terminal Disclaimer of the present claims over claims 18-29 of copending USSN 07/686,264, now U.S. Patent 6,090,795, is enclosed to overcome the obviousness-type double patenting rejection of all pending claims.

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Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at (612) 336-4686 or the below-listed main telephone number.

Respectfully submitted,
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